

COMBATING FOOD WASTE IN THE UNITED STATES: FRANCE AND CANADA OFFER INNOVATIVE SOLUTIONS

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INTRODUCTION: THE UNITED STATES MUST ADOPT MEASURES TO COMBAT FOOD WASTE.

People of the United States have not always been so keen to throw away their spare food. In the early 1900s, wasting food was considered “shameful and unpatriotic” in the United States.¹ However, as the supply of food increased and the costs of food declined, the US’ culture towards food waste shifted, and the United States is now considered to be a “throwaway society.”² This problematic cultural mindset is heightened by the increase of disposable products and inefficient labeling requirements.³ Issues such as these require swift correction if the United States hopes to improve upon its worldwide food waste ranking of eleventh for high-income countries.⁴

Approximately one-third of all food is wasted globally.⁵ The United States is no different, as it wastes 30 percent of its food per year totaling an annual loss of \$48.3 billion.⁶ The US government has enacted various regulations and marketing platforms in an effort to improve its food waste situation.⁷ For instance, the United States has recently imposed food waste bans, challenges, and composting laws.⁸ To further improve the United States’ food waste problem, the US government

¹ Sarah J. Morath, *Regulating Food Waste*, 48 TEX. ENV’T L.J. 239, 240 (2018).

² Ben Cosgrove, *Throwaway Living: When Tossing Out Everything Was All the Rage*, TIME, May 15, 2014.

³ Elaine S. Povich, *How confusing labels contribute to our food waste problem*, PBS (Apr. 2, 2019), <https://www.pbs.org/newshour/health/how-confusing-labels-contribute-to-our-food-waste-problem> [https://perma.cc/H7QG-HCLJ].

⁴ The US received a food waste score of 77.7, whereas the average score was 69.5. The US was eleventh out of thirty-five high income countries. *Fixing Food 2018*, THE ECONOMIST INTELLIGENCE UNIT (2018), 7, <https://foodsustainability-cms.eiu.com/wp-content/uploads/sites/34/2019/05/FixingFood2018-2.pdf> (last visited Feb. 1, 2023) [https://perma.cc/58HR-EYD2].

⁵ *Wasted Food Statistics*, THE WORLD COUNTS (2021), <https://www.theworldcounts.com/challenges/people-and-poverty/hunger-and-obesity/food-waste-statistics> (last visited Jan. 26, 2023) [https://perma.cc/59K3-WRJK].

⁶ *How We Fight Food Waste in the US*, FEEDING AMERICA, <https://www.feedingamerica.org/our-work/reduce-food-waste#:~:text=How%20much%20food%20waste%20is,food%20in%20America%20is%20waste> (last visited Feb. 1, 2023) [https://perma.cc/ZZ36-VV7N]; See *Promoting Sustainable Lifestyles*, UN ENVIRONMENT PROGRAMME, <https://www.unep.org/regions/north-america/regional-initiatives/promoting-sustainable-lifestyles> (last visited Feb. 1, 2023) [https://perma.cc/XD7V-ZYD5].

⁷ See *Regional Resources to Reduce and Divert Wasted Food Across the United States*, ENV’T. PROT. AGENCY (Nov. 30, 2022), <https://www.epa.gov/sustainable-management-food/regional-resources-reduce-and-divert-wasted-food-across-united-states> [https://perma.cc/T5TB-99ZH].

⁸ *Id.*

should consider the regulation and implementation techniques of France and Canada, the first and fourth ranked food waste countries in the world in 2018, respectively.⁹ There will undoubtedly be challenges to change the systemic mindset of the people of the United States regarding food waste, but if the US government takes appropriate remedial action, the United States may once again view the act of wasting food as “shameful and unpatriotic.” Moreover, change must not only occur at the consumer level, but at all other levels of the supply chain, including the farm level, the farm-to-retail level, and the retail level.¹⁰

This comment examines food waste in the United States, France, and Canada and considers the differing approaches each country uses to combat food waste problems and ultimately seeks to determine the best solutions for correcting such issues. Part I addresses food waste regulation and implementation in the United States. Part II analyzes the food waste methods used in France and Canada and offers subsequent recommendations for the United States to implement. Finally, Part III concludes by summarizing actions the United States should take moving forward.

I. BACKGROUND: FOOD WASTE IN THE UNITED STATES.

Food waste may be defined as “the organic residues generated by the handling, storage, sale, preparation, cooking, and serving of foods.”¹¹ Food waste is problematic for several reasons.¹² To farm, distribute, consume, and decompose food, significant monetary capital is expended.¹³ Additionally, at all levels of the supply chain, substantial amounts of natural resources are used which directly impacts the environment.¹⁴ For instance, food waste increases the amount of

⁹ THE ECONOMIST INTELLIGENCE UNIT, *supra* note 4.

¹⁰ Katelin B. Gines, *Food Waste: A Regulatory Game?*, 24 DRAKE J. AGRIC. L. 97, 101 (2019).

¹¹ Jessica A. Cohen, *Ten Years of Leftovers with Many Hungry Still Left Over: A Decade of Donations Under the Bill Emerson Good Samaritan Food Donation Act*, 5 SEATTLE J. SOC. JUST. 455, 455 (2006).

¹² *Why is Food Waste a Problem?*, LOMI (Jan. 12, 2022), <https://pela.earth/blogs/news/why-is-food-waste-a-problem#:~:text=Food%20waste%20is%20a%20problem,produces%20the%20greenhouse%20gas%20methane> [<https://perma.cc/RLZ7-YPBU>].

¹³ *Id.*

¹⁴ *Id.*

greenhouse gas emissions in landfills, thereby contributing to global warming.¹⁵

The issues of food waste are prevalent in the United States, as the United States produces roughly ninety-six billion pounds of food waste annually.¹⁶ Such excessive losses may explain why the United States, despite its significant overall wealth, is known for having one of the highest rates of poverty and hunger among industrialized nations.¹⁷ Nearly 4 percent of US households include at least one family member who has “limited or uncertain availability of nutritionally adequate foods, including involuntarily cutting back on meals, food portions or not knowing the source of the next meal.”¹⁸

The US federal government has implemented various regulations throughout its history in an attempt to lower the amount of food waste and correct the hunger crisis in the United States.¹⁹ Historically, US law has applied the elevated strict liability standard to food preparation and distribution.²⁰ Strict liability means that the question of intent is ignored when considering an act.²¹ Applied to food preparation or distribution, a person/entity is automatically liable if their prepared or distributed food results in a person getting sick.²²

A. THE BILL EMERSON ACT.

In 1996, the Bill Emerson Good Samaritan Food Donation Act eased the harsh standard of liability for food preparation and distribution in certain situations.²³ The goal of the Bill Emerson Act was to increase donations of food and grocery products to non-profit organizations for distribution to individuals in need.²⁴ Ideally, this would lead to a

¹⁵ *Id.*

¹⁶ Alexandra I. Evans & Robin Nagele, *A Lot to Digest: Advancing Food Waste Policy in the United States*, 58 NAT. RES. J. 177, 177 (2018).

¹⁷ Cohen, *supra* note 11, at 456.

¹⁸ Cohen, *supra* note 11, at 456.

¹⁹ See Lindsay Bunting Eubanks, *From A Culture of Food Waste to a Culture of Food Security: A Comparison of Food Waste Law and Policy in France and in the United States*, 43 WM. & MARY ENV'T. L. & POL'Y REV. 667, 669 (2019).

²⁰ David L. Morenoff, *Lost Food and Liability: The Good Samaritan Food Donation Law Story*, 57 FOOD & DRUG L.J. 107, 108 (2002).

²¹ See Eubanks, *supra* note 19.

²² See Eubanks, *supra* note 19.

²³ Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C. § 1791.

²⁴ *Bill Emerson Act*, FEEDING AMERICA, <https://www.feedingamerica.org/ways-to-give/corporate-and-foundations/product-partner/bill-emerson> (last visited Feb. 1, 2023).

reduction of food waste while combating the issue of hunger.²⁵ The act attempted to achieve this goal in two ways. First, the act protected people from civil and criminal liability as long as the donation was made in good faith.²⁶ Second, the act changed the standard of liability so a person was only liable if their donation led to serious injury or death due to their own gross negligence or intentional misconduct.²⁷ These liability changes were largely welcomed in the legal community because, rather than spending time and money on donation procedures under specific state rules, the act now created a uniform standard among all donors in the United States.²⁸

Since the Bill Emerson Act was enacted, many “private and non-governmental programs have . . . accepted the responsibility [of] feeding the nation’s hungry.”²⁹ However, the act is not without its drawbacks. First, critics argue that by enacting such legislation the government has placed the burden of fixing the food waste and hunger issues onto private parties rather than with the government itself.³⁰ Relevant federal law today primarily seeks to encourage private parties to make food donations by lowering liability risks and offering tax write-offs.³¹ Additionally, the decreased liability is problematic because the final recipient consumers of the donations are now less protected legally if they get sick or die.³² Second, critics argue that the act is considered underutilized: “Many in the retail food industry are not aware of the Bill Emerson Act and the protections that it provides donors; some potential donors even believe it is illegal to donate food and grocery items.”³³ Despite these issues, the Bill Emerson Act has been supported by similar legislation combating food waste.³⁴

²⁵ Cohen, *supra* note 11, at 456.

²⁶ *Bill Emerson Act*, *supra* note 24.

²⁷ 42 U.S.C. § 1791.

²⁸ *See Bill Emerson Act*, *supra* note 24.

²⁹ Cohen, *supra* note 11, at 457.

³⁰ Cohen, *supra* note 11, at 457.

³¹ *See Eubanks*, *supra* note 19, at 670.

³² *See Eubanks*, *supra* note 19, at 670.

³³ James Haley, *The Legal Guide to the Bill Emerson Good Samaritan Food Donation Act*, 2013 ARK. L. NOTES 1448, ¶ 4, <http://media.law.uark.edu/arklawnotes/2013/08/08/the-legal-guide-to-the-bill-emerson-good-samaritan-food-donation-act/> [https://perma.cc/Q2HB-LFSM].

³⁴ [T]he Volunteer Protection Act of 1997 (reducing liability for nonprofit and government volunteers), the Federal Food Donation Act of 2008 (requiring contract language of all federal contracts over \$25,000 to include language encouraging food donation of any surplus food), and Emergency Food Assistance Program (allowing

The issue of food waste in the United States is not due to a lack of legislative effort. In recent years, legislators initiated several bills to help mitigate the food waste problem.³⁵ For instance, the Food Recovery Act of 2015 sought to provide funding, expand tax deductions, and establish requirements to reduce food waste.³⁶ The bill's goal was to reduce food waste by creating detailed requirements and initiatives at different food industry levels, such as consumers, farms, grocery stores, restaurants, schools, the government, and landfills.³⁷ A requirement at the consumer level, for example, would be uniform date labeling among manufacturers.³⁸ Also on the consumer level, legislators proposed an initiative "to sponsor a national campaign raising awareness on the impact of food waste and strategies to decrease wasted food at the household level."³⁹ At the farm or production level, the bill sought to invest in storage and distribution programs to help the food producers maintain safe products and consequently donate them to those in hunger.⁴⁰ In schools, the bill would have created education around food waste in order to help encourage food recovery.⁴¹ Additionally, schools would have been encouraged to buy "ugly" fruits and vegetables that are healthy to eat but cheaper due to their aesthetic state.⁴²

The Food Recovery Act of 2015 did not pass and eventually died in 2016.⁴³ Despite its benefits, the bill tried to bite off more food waste than it could chew. Political leaders ultimately determined that the 2016 bill should not pass because the bill's ideas were too ambitious and expensive.⁴⁴ This issue pertains not just to the Food Recovery Act, but to all food waste legislation in the United States. The pieces of legislation are complex, move quickly through the legislative process, lack society's support, and require substantial funding.⁴⁵

the Secretary of Agriculture to give monetary assistance to agencies participating in gleaning initiatives).

Eubanks, *supra* note 19 at 669.

³⁵ See Food Recovery Act of 2015, H.R. 4184, 114th Cong. (2015).

³⁶ See generally *id.*

³⁷ See generally *id.*

³⁸ *Id.* at 23.

³⁹ *Id.* at 19.

⁴⁰ *Id.* at 15.

⁴¹ *Id.* at 41.

⁴² *Id.* at 21–22.

⁴³ Food Recovery Act of 2015, H.R. 4184, 114th Congress (2015).

⁴⁴ Eubanks, *supra* note 19, at 673.

⁴⁵ Eubanks, *supra* note 19, at 673.

B. FOOD LABELING.

The US government may have been too focused on reducing liability associated with food donations and not focused enough on effectively reforming the date labeling system.⁴⁶ A report from the National Academies of Sciences, Engineering, and Medicine emphasized federal standardization of food date labeling as a key strategy in reducing consumer food waste in the United States.⁴⁷

Due to the failed efforts to pass legislation establishing federal standards for labels, states vary widely in their regulation of food labeling requirements.⁴⁸ This causes confusion among retailers and consumers because it is unclear what the label actually signifies.⁴⁹ For instance, date labels may represent the manufacturer's best guess at how long a product will remain at peak quality.⁵⁰ Conversely, the labels may let retailers know when they should pull the product from their shelves.⁵¹ Regardless of a label's actual meaning, the consumer's interpretation of the label is what impacts whether the food is likely to be wasted or not. To that end, "studies have shown consumers often mistake date labels for expiration or safety dates, and discard food that is still safe to eat."⁵²

The desire for food labels began in the 1950s when the connection between food manufacturers and food consumers increased significantly.⁵³ People began buying more food from grocery stores rather than growing it themselves or buying from a local vendor.⁵⁴ This change caused a social interest in learning about the quality of the food being purchased and consumed.⁵⁵ Initially, supermarkets voluntarily responded to their consumers' calls for more information and displayed

⁴⁶ Carmen Shaeffer Kalashian, *Out of Sight, Out of Mind: Finding a Solution to Food Waste in America*, 23 SAN JOAQUIN AGRIC. L. REV. 103, 104 (2013).

⁴⁷ Megan Lowry, *To Reduce Food Waste, Standardized Date Labeling, Behavior Change Campaign, and Marketing Changes Needed, Says New Report*, NAT'L ACAD. SCI. ENG'G & MED. (Aug. 21, 2020), <https://www.nationalacademies.org/news/2020/08/to-reduce-food-waste-standardized-date-labeling-behavior-change-campaign-and-marketing-changes-needed-says-new-report> [https://perma.cc/X9UK-SYAQ].

⁴⁸ Povich, *supra* note 3.

⁴⁹ Povich, *supra* note 3.

⁵⁰ Lowry, *supra* note 47.

⁵¹ Povich, *supra* note 3.

⁵² Lowry, *supra* note 47.

⁵³ Nolan Kessler, *Chapter 787: Reducing Food Waste with Fresh Food Date Labeling Terminology*, 49 U. PAC. L. REV. 355, 358 (2018).

⁵⁴ *See id.*

⁵⁵ *Id.*

date labels themselves.⁵⁶ Eventually, in 1975, Congress considered a uniform date labeling system after the General Accounting Office urged its adoption.⁵⁷ Despite consumer interest and improvements to productivity and efficiency in the food industry, Congress failed to pass any labeling legislation.⁵⁸ As a result, state and local governments began implementing inconsistent food date labeling laws, guidelines, and practices.⁵⁹

The Food Date Labeling Act of 2016 attempted to create a uniform standard for labeling.⁶⁰ The act's requirements were to have two key impacts. First, the act sought to eliminate consumer confusion over the meaning of expiration dates on food labels and whether or not the food is still safe to eat.⁶¹ This would be achieved by requiring the Secretaries of Agriculture and Health and Human Services to "provide consumer education and outreach on the meaning of quality date and safety date food labels."⁶² Second, the act was to establish standardized quality date and safety date food labels.⁶³ The standardized labeling involved requiring universal language among producers, manufacturers, distributors, and retailers.⁶⁴ For instance, food labels would be required to use "the phrases 'best if used by' to indicate food quality and the phrase 'expires on' to warn of food that may be unsafe to eat after a specified date."⁶⁵ The Food Date Labeling Act has not been voted on.⁶⁶

In 2017, the Food Marketing Institute and the Grocery Manufacturers Association announced a voluntary standard for labeling.⁶⁷ The standard would restrict labeling language to two phrases: "best if used by" which refers to product quality and "use by" which refers to product safety.⁶⁸ In 2018, the two groups encouraged retailers and manufacturers "to immediately begin phasing in the common

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 358–59.

⁵⁹ *Id.* at 359.

⁶⁰ Povich, *supra* note 3.

⁶¹ Food Date Labeling Act of 2016, S. 2947, 114th Cong. § 2(2) (2015-2016).

⁶² Kessler, *supra* note 53, at 360.

⁶³ Food Date Labeling Act of 2016, S. 2947, 114th Cong. § 4(g)(3) (2015-2016).

⁶⁴ *Id.* at § 4(a)(1), (b)(2).

⁶⁵ *Id.* at § 4(a)(2), (b)(2).

⁶⁶ Kessler, *supra* note 53, at 360.

⁶⁷ Povich, *supra* note 3.

⁶⁸ Povich, *supra* note 3.

wording with widespread adoption.”⁶⁹ Although this initiative is encouraging, its effectiveness is limited since it is not a requirement. Moreover, the prevailing issue remains a lack of consumer education regarding the phrases used in food labels.⁷⁰ “No education has been done to explain the new voluntary labels, and there’s no reason to think people would have magically acquired that knowledge. . . .”⁷¹

C. THE COMMISSION FOR ENVIRONMENTAL COOPERATION.

Under the Commission for Environmental Cooperation (CEC), the United States, Canada, and Mexico work together to address food loss and waste in North America.⁷² The CEC’s mission is to facilitate “effective cooperation and public participation to conserve, protect and enhance the North American environment in support of sustainable development for the benefit of present and future generations.”⁷³ Although the CEC was created in 1993, through the North American Agreement on Environmental Cooperation,⁷⁴ the CEC’s food waste initiatives did not become significant until 2018.⁷⁵ At that time, the CEC created the 2015-2016 Initiative on Food Waste Reduction and Recovery.⁷⁶ The goal of the initiative was to first understand food loss and waste better in the United States, Canada, and Mexico, and then to create solutions to mitigate the issue.⁷⁷ After the initiative was completed, the CEC concluded that the three participating countries had an inordinate amount of food waste disposed of in landfills.⁷⁸ The CEC found that this resulted in the release of methane gas, which is a

⁶⁹ Kessler, *supra* note 53, at 360.

⁷⁰ Povich, *supra* note 3.

⁷¹ Povich, *supra* note 3.

⁷² *About the CEC*, COMM’N FOR ENV’T COOP., <http://www.cec.org/about/> [https://perma.cc/E4CJ-GJLY].

⁷³ *Id.*

⁷⁴ *Agreement on Environmental Cooperation*, COMM’N FOR ENV’T COOP., <http://www.cec.org/about/agreement-on-environmental-cooperation/> [https://perma.cc/WB3J-ZA8P].

⁷⁵ *About the North American Initiative on Food and Organic Waste*, COMM’N FOR ENV’T COOP., <http://www.cec.org/fw/about-food-waste/> [https://perma.cc/G5AH-66SD].

⁷⁶ *North American Initiative on Food Waste Reduction and Recovery*, COMM’N FOR ENV’T COOP., <http://www.cec.org/north-american-initiative-on-food-waste-reduction-and-recovery-1/> [https://perma.cc/M32M-MGJG].

⁷⁷ COMMISSION FOR ENVIRONMENTAL COOPERATION, *supra* note 75.

⁷⁸ COMMISSION FOR ENVIRONMENTAL COOPERATION, *supra* note 76.

greenhouse gas “that is over 20 times more potent than carbon dioxide and has an atmospheric lifetime of about 12 years.”⁷⁹

In 2017-2018, the CEC created another food waste project when it operated and completed a plan focused on measuring and mitigating food loss and waste.⁸⁰ The project found that food loss and waste creates a significant problem for the economy, food security, and environment.⁸¹ Across North America, the CEC found that more than 168 million tons of food was wasted, which equaled a value of \$278 billion.⁸² In addition, the CEC concluded that the food waste correlates to inefficiencies regarding the transportation, distribution, and waste of water, agricultural land, and other inputs of production.⁸³

After completing these various projects, the CEC found several solutions for combating food waste. First, the CEC created the Food Matters Action Kit.⁸⁴ The kit seeks to educate and inspire change in people aged five to twenty-five.⁸⁵ The kit achieves its goal by awarding badges for certain accomplishments.⁸⁶ For instance, a person may win the “Influencer” badge by “making posters, holding events and sharing what [they have] learned about preventing food waste.”⁸⁷ Once a person earns all five badges, they will unlock the Food Waste Master badge.⁸⁸ This award system is likely an effective method to help educate and create action among the younger demographic. Second, the CEC created a practical guide for businesses, cities, states, and even countries to measure their food loss and waste.⁸⁹ The guide offers an easy to follow

⁷⁹ *Id.*

⁸⁰ *Measuring and Mitigating Food Loss and Waste*, COMM’N FOR ENV’T COOP., <http://www.cec.org/measuring-and-mitigating-food-loss-and-waste-1/> [https://perma.cc/YU34-UZ95].

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *See Food Matters Action Kit*, COMM’N FOR ENV’T COOP., <http://www.cec.org/flwy/> [https://perma.cc/892Y-3E6R].

⁸⁵ Food Systems Lab & River Road Creative, *Food Matters Action Kit: Inspiring Youth Across North America to Prevent Food Waste and Help Save Our Planet*, COMM’N FOR ENV’T COOP., at v (2019), <http://www.cec.org/files/documents/publications/11817-food-matters-action-kit-inspiring-youth-across-north-america-prevent-food-waste-en.pdf> [https://perma.cc/RN9R-4YG7].

⁸⁶ *Id.*

⁸⁷ *Id.* at iv.

⁸⁸ *Id.*

⁸⁹ *See generally* Brian Lipinski and Austin Clowes, *Why and How to Measure Food Loss and Waste: A Practical Guide – Version 2.0*, COMM’N FOR ENV’T COOP. 28 (2021),

seven step measurement checklist that concludes by offering sector-specific guidance.⁹⁰ The sectors covered include primary production, processing and manufacturing, distribution and wholesale, retail, food service/institutions, household, and whole supply chain approaches.⁹¹ This wide scope of guidance is crucial to managing food waste at all levels, especially since the CEC offers methods of food waste control for each sector.⁹²

Lastly, the CEC published a detailed report stating the problems, causes, affected parties, and solutions to food waste.⁹³ For the food waste causes, the report considered each North American country specifically.⁹⁴ In Canada, the report focused on the country's population distribution.⁹⁵ Since most of the population is located near the southern border, food must often be transported significant distances from the rural areas where most of the food in Canada is grown.⁹⁶ This transportation factor illustrates that the urban areas of Canada require different initiatives than the rural areas.⁹⁷ Additionally, Canada imports and exports a large amount of food compared to other countries, which directly affects the management of its food supply chain.⁹⁸ To properly manage the supply chain, governmental coordination has been advocated for.⁹⁹

In the United States, the report acknowledges the US government's recent combative actions and food waste reduction goals.¹⁰⁰ The report is largely positive towards the United States' initiatives, except for a concern regarding the United States' ability to effectively coordinate the initiatives with companies and agencies.¹⁰¹ However, the report notes that the United States has provided high-quality educational

<http://www.cec.org/files/documents/publications/11869-why-and-how-measure-food-loss-and-waste-practical-guide-version-20-en.pdf>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* at 28.

⁹³ See generally Tetra Tech, Robins Environmental, & Cascadia Consulting, *Characterization and Management of Food Loss and Waste in North America*, COMM'N FOR ENV'T COOP. (2017), <http://www.cec.org/files/documents/publications/11772-characterization-and-management-food-loss-and-waste-in-north-america-en.pdf>.

⁹⁴ See *id.* at 23–24.

⁹⁵ *Id.* at 23.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 23–24.

¹⁰⁰ *Id.* at 24.

¹⁰¹ *Id.*

materials to “various stakeholders about proven solutions and innovative new approaches to reducing food loss and waste.”¹⁰²

The CEC report concludes by offering solutions to combat food waste. For each solution, the report states the solution generally, describes how to achieve the solution, states relevant considerations and goals, and says who the relevant stakeholders are.¹⁰³ The offered solutions are categorized based on the sector of food waste they seek to effect.¹⁰⁴ For instance, the cross-cutting solutions relate to reducing food waste throughout all of North America, such as creating a North American advisory committee that focuses on food loss and waste.¹⁰⁵ Alternatively, the source reduction solutions seek to lower the amount of food wasted.¹⁰⁶ An example of this solution is to establish standardized date labels across North America.¹⁰⁷ Next, the food rescue and recovery solution relates to creating initiatives that support food donations, such as prioritizing infrastructure to improve the logistics and storage of healthy foods.¹⁰⁸ Lastly, the measuring, tracking, and reporting solutions seek to create standardized reporting throughout North America by using consistent terms and definitions.¹⁰⁹

D. FUTURE OUTLOOK.

In 2015, the US Department of Agriculture and Environmental Protection Agency announced the 2030 Food Loss and Waste Reduction Goal, which was the first food waste goal created by the United States.¹¹⁰ The goal is to reduce half of the amount of food loss and food waste in the United States by 2030.¹¹¹ The federal government strives for this goal in order to “reduce climate and environmental impacts associated with food loss and food waste while improving food security and saving

¹⁰² “Information resources are submitted to ‘Further with Food’ and then compiled onto the organization’s searchable, user-friendly website.” *Id.*

¹⁰³ *Id.* at 25.

¹⁰⁴ *Id.* at 26–28.

¹⁰⁵ *Id.* at 25–26.

¹⁰⁶ *Id.* at 4, 18.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 27.

¹⁰⁹ *Id.* at 28.

¹¹⁰ *United States 2030 Food Loss and Waste Reduction Goal*, ENV’T. PROT. AGENCY (July 7, 2022), <https://www.epa.gov/sustainable-management-food/united-states-2030-food-loss-and-waste-reduction-goal> [<https://perma.cc/2HU6-TZ9A>].

¹¹¹ *Id.*

money for families and businesses.”¹¹² Although the US federal government’s goal sounds promising, there is justifiable doubt regarding its ability to achieve its significant, first ever food waste reduction goal. The US government would be wise to consider the strategies and successes of those countries which best manage food waste, such as France and Canada. In doing so, the United States can reduce its total food waste, support those in hunger, and achieve its goal for 2030.

II. ANALYSIS: FRANCE AND CANADA OFFER INNOVATIVE SOLUTIONS TO COMBATING FOOD WASTE.

The French and Canadian governments are finding innovative ways to reduce food waste in their countries. Despite the United States’ efforts, it has largely failed to create and pass food waste legislation that educates, incentivizes, and punishes consumers and businesses. The Bill Emerson Act did prove beneficial to the United States, but in the long term it will not aid in the reduction of food waste enough to be sufficient on its own. The United States must continue to encourage private parties to distribute unused food. Moreover, the US government should look to France regarding effective legislation. Additionally, the United States should emulate Canada’s ability to encourage private parties to help in the food waste crisis. By comparing the United States’ legislation and culture to that of France and Canada, Part II of this comment will illustrate ways in which the United States can vastly improve its food waste crisis in a timely and innovative manner.

A. METHODS USED TO COMBAT FOOD WASTE IN FRANCE.

The European Union, which France is a member of, has concluded that “the reduction of food loss and waste is a good objective for a collective action,” which means that food loss and waste is a global problem.¹¹³ Although the European Parliament has emphasized a commitment to food waste reduction via the declaration of long-term goals, a special report by the European Court of Auditors confirms that such political statements have not resulted in corresponding results.¹¹⁴

¹¹² *Id.*

¹¹³ Luis González Vaqué, *French and Italian Food Waste Legislation*, 12 EUR. FOOD & FEED L. REV. 224, 224 (2017).

¹¹⁴ *Id.* at 224–25.

However, this is not the case among all members of the European Union. In particular, France has heeded the call and has implemented relevant legal measures to combat food waste.¹¹⁵

1. *The Supermarket Law.*

In 2016, the French government adopted *LOI n° 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire* (“having to do with the fight against food waste.”).¹¹⁶ This law may be titled “the Supermarket Law” because it required grocery stores in France to sign contracts with local non-profits and food banks.¹¹⁷ A food waste benefit derives from the contracts because, according to the law, French supermarkets are required to allow the non-profit parties to distribute any of the supermarket’s excess, usable food.¹¹⁸ A penalty may arise to a French grocery store in several instances. First, if the grocery store refuses to sign the contract,¹¹⁹ and second, if a grocery store intentionally destroys unused food.¹²⁰ The law states, “[t]he fight against food waste encompasses raising public awareness and training all actors, the mobilization of local actors and regular communication requesting consumers, in particular in the category of local programs, to prevent waste.”¹²¹ Overall, the French law is impactful because it promotes the distribution of unused food, provides penalties to manufacturers who waste food, and offers education via awareness campaigns.¹²²

In passing the Supermarket Law, France proactively amended their laws to incorporate more rigid food waste text into their existing

¹¹⁵ *Id.* at 225.

¹¹⁶ See Loi 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire [Law 2016-138 of February 11, 2016 having to do with the right against food waste], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.][OFFICIAL GAZETTE OF FRANCE], Feb. 12, 2016, https://www.legifrance.gouv.fr/jo_pdf.do?id=JORFTEXT000032036289 [<https://perma.cc/NLM5-P87T>].

¹¹⁷ Eubanks, *supra* note 19, at 676.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 676–77.

¹²¹ See Loi 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire [Law 2016-138 of February 11, 2016 having to do with the right against food waste], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.][OFFICIAL GAZETTE OF FRANCE], Feb. 12, 2016, https://www.legifrance.gouv.fr/jo_pdf.do?id=JORFTEXT000032036289 [<https://perma.cc/NLM5-P87T>].

¹²² See generally *id.*

legislation.¹²³ For example, volume v of article 1 of the code now illustrates an anti-action food waste hierarchy.¹²⁴ The hierarchy priority goes as follows: (1) food waste prevention through discounts and awareness, (2) donating or processing unsold goods that are still suitable for human consumption, (3) recover food waste by converting it into animal food, (4) using the food waste as agricultural fertilizer or recovering it as energy, and (5) disposal.¹²⁵

In addition to this hierarchy, the code comments on three other measures. First, the code states that the fight against food waste includes raising awareness and training all stakeholders, as well as the bringing together of all stakeholders at the local level.¹²⁶ Second, the code forbids food retailers from destroying unsold food products still fit for consumption.¹²⁷ Lastly, in relation to the second measure mentioned, the code mandates food retailers, who exceed a size of 4,305 square feet, to contract with a charity organization to donate their unsold products.¹²⁸ A failure to do so may result in fines of up to €75,000 or two years in jail.¹²⁹

The Supermarket Law received welcome applause in part due to the French media's extensive coverage of poor families, students, unemployed, and homeless people who often secretly scavenge food from supermarket waste bins to feed themselves.¹³⁰ Before the code was enacted, food retailers feared that they would be liable for possible injuries to scavengers caused from food-poisoning.¹³¹ To prevent this, some supermarkets doused binned food in bleach, whereas other supermarkets would lock the bins away from the public's reach.¹³² In

¹²³ *Id.*

¹²⁴ Pierre Condamine, *France's Law for Fighting Food Waste*, ZERO WASTE EUROPE (Nov. 2020), https://zerowasteurope.eu/wp-content/uploads/2020/11/zwe_11_2020_factsheet_france_en.pdf.

¹²⁵ *Id.* Vaqué, *supra* note 113, at 5.

¹²⁶ LOI 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire [Law 2016-138 of February 11, 2016, on the fight against food waste], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], Feb. 12, 2016, https://www.legifrance.gouv.fr/jo_pdf.do?id=JORFTEXT000032036289 [<https://perma.cc/NLM5-P87T>].

¹²⁷ Condamine, *supra* note 124.

¹²⁸ *Id.*

¹²⁹ Angelique Chrisafis, *France to Force Big Supermarkets to Give Away Unsold Food to Charity*, THE GUARDIAN (May 22, 2015) <https://www.theguardian.com/world/2015/may/22/france-to-force-big-supermarkets-to-give-away-unsold-food-to-charity>.

¹³⁰ *Id.*

¹³¹ *See id.*

¹³² *Id.*

addition to possible sickness, the scavengers faced criminal risks related to theft.¹³³

Although the new code appears to address this issue, the French supermarket organization Fédération du Commerce et de la Distribution has criticized the plan for targeting supermarkets and ignoring other key parties.¹³⁴ The head of the organization, Jacques Creyssel, stated: “[t]he law is wrong in both target and intent, given the big stores represent only five percent of food waste but have these new obligations. . . . They are already the pre-eminent food donors, with more than 4,500 stores having signed agreements with aid groups.”¹³⁵

2. *Extension of the Supermarket Law.*

To extend the measures of the Supermarket Law, France passed *ordonnance n° 2019-1069 du 21 octobre 2019 relative à la lutte contre le gaspillage alimentaire*. The ordinance extended the Supermarket Law to mass caterers and food retailers whose annual turnover exceeds €50 million.¹³⁶ Additionally, the law required mass caterers to offer a doggy-bag option to their customers, thereby increasing the likelihood of customers eating all their food.¹³⁷ Lastly, to improve awareness, the law obligated certain parties in the food and mass catering sectors to make public their commitments to reducing food waste.¹³⁸

3. *Legislation Regarding Unsold Food Products.*

The most recent French legislation regarding food waste, *LOI n° 2020-105 du 10 février 2020 relative à la lutte contre le gaspillage et à l'économie circulaire*, takes novel measures to complement the already existing systems for food products.¹³⁹ The code begins by offering blunt commentary about waste as a whole in France. First, the code states that “France is among the worst performers in Western Europe when it comes

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Condamine, *supra* note 124.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ See LOI 2020-105 du 10 février 2020 relative à la lutte contre le gaspillage et à l'économie circulaire [Law 2020-105 of February 10, 2020, on the fight against waste and the circular economy] JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.][OFFICIAL GAZETTE OF FRANCE], Feb. 10, 2020.

to collecting and sorting packaging.”¹⁴⁰ Therefore, to solve this problem, the French government’s unique legislation will ban the practice of wasting unsold products.¹⁴¹ This measure essentially expands previous law governing food waste to waste of all unsold products. In short, any unsold items must be donated or recycled.¹⁴²

The *LOI n° 2020-105* legislation offers two main measures applicable to food waste specifically. First, the French government concluded that the punishment for destroying unsold food products fit for consumption was not strong enough.¹⁴³ To help support compliance, the code strengthened the fine from €3,750 to potentially 0.1 percent of the supermarket’s annual turnover.¹⁴⁴ Despite such a low percentage, the fine is significantly higher than the previous legislation’s penalty since the food retailers considered under the code are comparatively larger retailers.¹⁴⁵ Second, the code notes the importance of addressing food product labeling in the future.¹⁴⁶ Specifically, the code requires retailers to document the dates associated with the language of the food labels, such as “best before” and “use by” dates.¹⁴⁷ Food labeling is a common concern throughout Europe due to the fact that 10 percent of the food that is thrown away is still fine to eat.¹⁴⁸ This represents a significant portion of the 33 percent of food that is wasted across Europe.¹⁴⁹

The French legislation has made one labeling recommendation to food retailers. Under *LOI n° 2020-105*, if a food product has a minimum durability date label on it, the French government recommends accompanying the label with a statement that the product remains edible after the minimum durability date.¹⁵⁰ As this legislation illustrates, the challenge with food labeling is ensuring the consumer understands what

¹⁴⁰ *Id.*

¹⁴¹ *Id.* § 35.

¹⁴² *Id.*

¹⁴³ Condamine, *supra* note 124.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *See id.*

¹⁴⁷ *Id.*

¹⁴⁸ *French Cheese ‘Fine to Eat After Best Before Date,’* THE CONNEXION (July 2, 2020), <https://www.connexionfrance.com/French-news/Food-waste-French-cheese-fine-to-eat-after-best-before-date> [<https://perma.cc/SU57-D7R5>].

¹⁴⁹ *Id.*

¹⁵⁰ *LOI 2020-105 du 10 février 2020 relative à la lutte contre le gaspillage et à l’économie circulaire* (1) [LAW n° 2020-105 of February 10, 2020 relating to the fight against waste and the circular economy], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.]*[OFFICIAL GAZETTE OF FRANCE], Feb. 10, 2020, p. 10, § 35.

the label actually means. For instance, “use by” means the food must be consumed by that date.¹⁵¹ A failure to do so indicates the food is now too dangerous to eat and should be thrown away.¹⁵² The “use by” label is typically associated with fresh food that spoils easily, such as meat or fish.¹⁵³ Conversely, “best before” means that the food may not be at its peak appearance, freshness, or flavor after this date, but the food may nevertheless be consumed without any health risks if it looks and smells safe to eat.¹⁵⁴

4. *Limits to France’s Food Waste Laws.*

Despite its successes, French food waste legislation is not without its limits. First, the Supermarket Law does not establish the amount of food supermarkets must donate to charities when contracting with them.¹⁵⁵ To that end, a supermarket could donate 1 percent of their suitable food and be in compliance.¹⁵⁶ This is clearly not in accordance with the legislative intent of the code’s drafters and is an example of flawed legislative writing. Second, as noted previously by the head of France’s supermarkets organization, the French legislation targets only a part of the supply chain.¹⁵⁷ Large supermarkets are the target of the legislation but only account for 5 percent of the food waste problem, which leaves a vast majority of those who waste food unimpacted by the legislation.¹⁵⁸ France would benefit from governing at the pre-retail level as well.¹⁵⁹ Third, the product labeling requirements are too lenient. The current legislation serves well to document food labeling, but it fails to properly educate consumers regarding the meaning of the food labeling language. The French government should mandate, rather than suggest, that labeling terms be described, including the terms “best before” and “use by.” Fourth, the fines associated with violating the food waste laws should be more severe. The current 0.1 percent of annual turnover fine is larger than the previous fine, but the large supermarkets still likely do not

¹⁵¹ THE CONNEXION, *supra* note 148.

¹⁵² *See id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ Vaqué, *supra* note 113, at 227.

¹⁵⁶ *Id.*

¹⁵⁷ *See* Chrisafis, *supra* note 129.

¹⁵⁸ *Id.*

¹⁵⁹ Condamine, *supra* note 124.

view such a penalty as forceful.¹⁶⁰ Lastly, the French laws should focus more on reducing the overproduction of food. Given that one-third of all food produced is wasted, and that 10 percent of food is wasted despite being fit for consumption, the most significant problem is producing too much food and having it become unfit to eat. An emphasis on improving logistics would help alleviate this concern.¹⁶¹

5. *French Factors for the United States to Consider.*

There are several takeaways from France's food waste legislation that the United States should consider. First, the United States should heed the advice of French critics regarding the need to regulate all levels of food waste.¹⁶² The Bill Emerson Act is similar to French legislation in that the Bill Emerson Act seeks to encourage food retailers to donate suitable food to charitable organizations.¹⁶³ Although French legislation attempts to accomplish this via fines, whereas the United States attempts this via changes in liability, the overall theme of both legislative writings is that retailers are the key to improving food waste. This, however, is not the case.¹⁶⁴ Instead, retailers are merely one of the four levels of food loss.¹⁶⁵ The four levels include the farm level, the farm-to-retail level, the retail level, and the consumer level.¹⁶⁶

At the farm level, the reasons for food losses are rather intuitive. For instance, food loss may occur due to insects, rodents, birds, and other animals damaging or completely ruining post-harvest crop products.¹⁶⁷ Furthermore, farmers face significant logistical problems when determining how much food to produce.¹⁶⁸ The logistical challenge heightens when the market is undergoing volatile buying behavior.¹⁶⁹ Lastly, there is the constant risk of weather impacting food production and food quality, which may result in further food loss.¹⁷⁰

¹⁶⁰ *Id.*

¹⁶¹ See THE CONNEXION, *supra* note 148.

¹⁶² See Chrisafis, *supra* note 129.

¹⁶³ See generally, FEEDING AMERICA, *supra* note 24.

¹⁶⁴ See Chrisafis, *supra* note 129.

¹⁶⁵ Katelin B. Gines, *Food Waste: A Regulatory Game?*, 24 DRAKE J. AGRIC. L. 97, 101 (2019).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 102.

¹⁶⁸ See *id.*

¹⁶⁹ See *id.*

¹⁷⁰ *Id.*

At the farm-to-retail level, there are several reasons food waste can occur.¹⁷¹ A farmer may not meet the government's regulations regarding health and safety.¹⁷² Conversely, food may be deemed unfit to eat due to issues during the transportation of the food.¹⁷³ The food may spill or get damaged when equipment malfunctions, such as a cold storage container in a truck failing to work.¹⁷⁴ A consumer's opinion of the appearance of food is also important at this stage because farmers throw away food that is blemished or misshapen, despite being fit to eat.¹⁷⁵

At the retail level, overstocking is a major issue when food items are not sold.¹⁷⁶ This can be especially problematic during the holiday season when shopping is busier.¹⁷⁷ As discussed with farmers and food waste, the logistics of accurately calculating what supply of food is needed to meet demand is challenging.¹⁷⁸ Additionally, retailers face similar issues as food transporters regarding malfunctioning equipment.¹⁷⁹

The last level of food loss is the consumer level. Although largely ignored by US and French legislation, this is where the majority of the calculated food waste occurs (90 billion pounds out of 131 billion pounds in the United States alone).¹⁸⁰ Food labeling is one reason why consumers waste so much food.¹⁸¹ There is widespread confusion on what the language of food labels means, leading to a vast amount of consumers disposing of food that is still fit for consumption.¹⁸² This is especially true when a food product no longer appears in its aesthetically pleasing state.¹⁸³ There is also a general lack of knowledge regarding portion sizes, which leads to the overbuying and wasting of food.¹⁸⁴

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 113.

¹⁷⁷ *Id.* at 102.

¹⁷⁸ *Id.* at 102–3.

¹⁷⁹ *Id.* at 103.

¹⁸⁰ *Id.* at 103.

¹⁸¹ *Id.* at 114.

¹⁸² *Id.* at 114.

¹⁸³ *Id.* at 102.

¹⁸⁴ *Id.* at 103.

Examining the four levels of food waste shows that the US and French legislators must consider more extensively the three levels besides retailers. The consumer level is statistically shown to have the highest amount of waste, yet consumers are not directly punished by either US or French legislation for food waste.¹⁸⁵ Granted, both governments can argue that the consumers are indirectly impacted because regulations regarding sellers (food retailers) nevertheless impact buyers (consumers). To that end, France has been more proactive in regulating the retailer level than the United States has. The United States would be wise to follow in France's lead in enacting legislation that: (1) obligates food retailers to partner with charity organizations; (2) forbids and punishes food retailers from disposing of food fit for consumption; and (3) requires food retailers to improve their logistics, and thus decrease overproduction, by tracking their food products by "best before" and "use by" dates.¹⁸⁶

6. *Recommendations for the United States Based on France's Actions.*

The United States should take several corrective measures in light of France's food waste actions. First, the Bill Emerson Act must expand its reach. In its current state, the Bill Emerson Act merely makes food donations an option for retailers, rather than an obligation. To actually promote food donations and prevent food waste, the Bill Emerson Act should follow France's lead and require food retailers to partner with charity organizations. Additionally, unlike France's legislation, the percentage of food donated to charities should be proportionate to the food retailer's size. This would help prevent France's problem—major food retailers donate the same percentage of food as smaller food retailers, despite having significantly more food available for donation—from happening in the United States.

Second, the United States should implement legislation that forbids food retailers from disposing of food fit for consumption and punishes them for doing so. As in France, this would ensure compliance with the requirement to donate food to charities. The penalty for failing to donate must be significant enough to establish that food retailers are better off paying the costs associated with donating the food. For

¹⁸⁵ *Id.* at 103.

¹⁸⁶ Condamine, *supra* note 124.

instance, the legislation would have little impact if the penalty was so small that a food retailer would pay more donating the food than they would in penalty fees. With this in mind, it may be advantageous to offer tax benefits to food retailers who donate and spend a significant amount of money donating food to charity.

Third, the United States should require food retailers to improve their logistics, and thus decrease production, by tracking their food products via food labels. To achieve this, the United States should first enact the Food Recovery Act of 2017, which seeks to require all food to have “best if used by” and “use by” language.¹⁸⁷ After this uniform language is implemented, food retailers would be equipped to manage the quantity of their food by tracking the food labels. Specifically, the “use by” label is significant because it indicates the date that the food is no longer safe to eat.¹⁸⁸ If a food retailer properly tracks this, then the food retailer may only need to order food once the “use by” label dates are approaching. This method would ensure that the quantity of food purchased does not reach a surplus.

Overall, France has made significant progress towards lowering its amount of food waste. Through various pieces of legislation, France has effectively targeted key parties in the food waste space and required them to preserve and donate food fit for human consumption. The United States would be wise to consider France’s food waste legislation and make appropriate changes.

B. METHODS USED TO COMBAT FOOD WASTE IN CANADA.

Canada’s success in managing food waste likely stems from its proactive approach. The Government of Canada has long recognized the impacts and causes of food waste,¹⁸⁹ and it clearly illustrates to the Canadian people what combative actions it is taking.¹⁹⁰ In addition to Canada’s work with the Commission for Environmental Cooperation, Canada has taken several measures to improve food waste domestically. Whether it be awarding innovative ideas or creating standardized

¹⁸⁷ Food Recovery Act of 2017, H.R. 3444, 115th Cong. (2017).

¹⁸⁸ *Id.*

¹⁸⁹ In 1875, Canada created the Food and Drug Directorate. One aspect of the Directorate was managing food labeling. R.A. Chapman, *Food Safety in Canada*, 21 FOOD DRUG COSM. L.J. 283, 284 (1966).

¹⁹⁰ See *Food Loss and Waste*, GOV’T OF CAN., <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/food-loss-waste.html> (last modified Jan. 28, 2022).

labeling requirements, Canada's initiatives have proven effective, and the United States would therefore be wise to follow Canada's lead.

1. *Food Policy for Canada.*

In 2017, Canada engaged with a diverse group of experts to create a Food Policy for Canada that will help Canada build a healthier and more sustainable food system.¹⁹¹ This first ever Canadian policy was funded in 2019 with over \$134 million of initial investment.¹⁹² The Policy was created because the Government of Canada recognized three issues in the Canadian food system: (1) around one million Canadian households are not able to access healthy food, (2) almost two in three Canadian adults are overweight or obese, and (3) about one-third of food produced in Canada is wasted.¹⁹³ Specific to food waste, the policy seeks to improve operations for the processing, retail, and food service sectors and to reduce food waste within the federal government.¹⁹⁴ The policy's core strategies to achieve its goals include extensive research and innovation, detailed and frequent communication and collaboration with the public, and offering educational information that will help connect all food waste stakeholders.¹⁹⁵

2. *Improved Measurements.*

In 2019, the Environment and Climate Change Canada hosted the Workshop on Reducing Food Loss and Waste.¹⁹⁶ The objective of the workshop was to have the roughly one hundred Canadian experts in attendance offer ideas for measuring and reducing food loss and waste across the food supply chain.¹⁹⁷ Overall, the experts largely concluded that the biggest measurement needed was to establish standardized

¹⁹¹ *The Food Policy for Canada*, GOV'T OF CAN., <https://agriculture.canada.ca/en/about-our-department/key-departmental-initiatives/food-policy/food-policy-canada> (last modified Nov. 17, 2020) [<https://perma.cc/4HP5-5D2S>].

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Reducing Food Loss and Waste in Canada Workshop Summary*, ENV'T & CLIMATE CHANGE CAN. 1 (June 2019), <https://www.canada.ca/content/dam/eccc/food-loss-and-waste/FLW%20Workshop%20Summary%20Report%20ENG%20-%20FINAL.pdf> [<https://perma.cc/8PC9-CC69>].

¹⁹⁷ *Id.*

benchmarks for measuring food waste.¹⁹⁸ For example, at the national and sub-national level, the experts agreed that food waste should be categorized based on the following categories: avoidable, potentially avoidable, unavoidable, potentially edible, inedible, and edible.¹⁹⁹ Additionally, the experts largely agreed that food waste reporting must improve if food waste measurements can be helpful, especially food waste reporting at the farm-level.²⁰⁰ If data collection improves, then the use of standardized language in analyzing food waste will be effective in improving the accuracy of food waste data.²⁰¹

3. *Food Waste Reduction Challenge.*

The Canadian government has launched a public initiative called the Food Waste Reduction Challenge.²⁰² The challenge will award up to \$10.8 million to innovators who create new business models that can prevent or divert food waste at any point from farm-to-plate.²⁰³ The Canadian government will award funding to the innovators whose solutions have the potential of reducing the most amount of food waste.²⁰⁴ The judges will consider the growth potential and time efficiency of the food waste solutions.²⁰⁵ The Canadian government will offer challenges that seek to identify various forms of food waste reduction. For example, Challenge Streams C and D will focus on finding innovative technologies that can extend the life of food or transform food that would otherwise be lost or wasted.²⁰⁶

¹⁹⁸ *Id.* at 7.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.* at 12.

²⁰² Agriculture and Agri-Food Canada, *Government of Canada Launches Food Waste Reduction Challenge*, CISION (Nov. 19, 2020), <https://www.newswire.ca/news-releases/government-of-canada-launches-food-waste-reduction-challenge-857331484.html> [https://perma.cc/HT7G-NZ9Z].

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

4. *Recommendations for the United States Based on Canada's Actions.*

Canada's methods for combating food waste offer innovative solutions for the United States. First, it would be wise for the United States to implement a policy similar to the Food Policy for Canada in order to raise food waste awareness among all members of the supply chain.²⁰⁷ At the retail level, despite some large US retailers becoming increasingly aware of food waste issues, food waste awareness is significantly lacking.²⁰⁸ There is, however, a rippling effect across the supply chain when large retailers promote the benefits of combating food waste to other retailers or consumers.²⁰⁹ For example, it was beneficial to consumer awareness when Walmart began selling a brand of apples that was not as visually attractive compared to other apples.²¹⁰ As this example and the Food Policy for Canada illustrates, the key to the United States raising awareness is (1) researching solutions to combat food waste at all levels of the supply chain, (2) having experts communicate those research findings in detail to relevant stakeholders, and (3) working with stakeholders to create efforts that will combat food waste in the short and long term.

Second, Canada's expert workshops emphasized the importance of having standardized measurements.²¹¹ The United States' failure to have a standardized labeling system impacts not only sale values for retailers or consumption values for consumers, but it also squanders money on the growing, processing, storing, and disposal of food that is never consumed.²¹² In addition to monetary waste, this also unnecessarily depletes the United States' natural resources, such as water, land, and

²⁰⁷ See *The Food Policy for Canada*, GOV'T. OF CAN. (Nov. 17, 2020), <https://agriculture.canada.ca/en/about-our-department/key-departmental-initiatives/food-policy/food-policy-canada> [https://perma.cc/6C5Z-3QAJ].

²⁰⁸ See *Food Waste: The Good, the Bad, and the Ugly*, MOVE FOR HUNGER (last visited Jan. 20, 2023), https://moveforhunger.org/food-waste-good-bad-ugly?gclid=Cj0KCQjwshmaBhCvARIsAlbEbH4kKG9M-NFi1IWlReIkyq50Bs6EddICmP7QZclFxpbnrrpmBTr2FMQaAljEELw_wcB [https://perma.cc/JVD4-N2BU].

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Reducing Food Loss and Waste in Canada Workshop Summary*, ENV'T AND CLIMATE CHANGE CAN., 1,7,12,17 (June 2019), <https://www.canada.ca/content/dam/eccc/food-loss-and-waste/FLW%20Workshop%20Summary%20Report%20ENG%20-%20FINAL.pdf> [https://perma.cc/8PC9-CC69].

²¹² LOMI, *supra* note 12.

energy.²¹³ To remedy this issue, the United States must adopt standardized label requirements.

Third, the United States must pursue extensive efforts, such as Canada's Food Waste Reduction Challenge, to shift the US public's mindset towards food waste and thereby reduce food waste at the consumer level. The US public has inconsistently viewed the issue of food waste throughout its history.²¹⁴ In the Progressive Era of the United States, a person may be "privately punished" or seen as an "odd ball" for wasting food.²¹⁵ Today, on the other hand, people in the United States may merely say they feel "bad" about wasting food, but nevertheless wasting food is a common and accepted practice in the United States.²¹⁶ Researchers believe the main way to cure the United States' current mindset is through education.²¹⁷ A report from the National Academies of Sciences, Engineering, and Medicine "specifically calls on professional organizations to work with food influencers, including social media personalities and cooking show hosts, to promote food literacy and waste reduction on their platforms."²¹⁸ In addition, K-12 schools and colleges should be provided with the tools to teach students about the repercussions of food waste.²¹⁹

Canada uses both formal and innovative educational solutions. As a formal educational effort, the Food Policy for Canada is vital to educating all relevant stakeholders on the issues, goals, and solutions for food waste in Canada.²²⁰ The United States offers a similar education policy on its government website.²²¹ The US government's food waste website illustrates steps to fight food waste based on the stakeholder, such as a farmer, business, school, donator or consumer.²²² This is an effective educational tool that the Canadian government's website does

²¹³ *Id.*

²¹⁴ See Adam Chandler, *Why Americans Lead the World in Food Waste*, ATLANTIC (July 15, 2016), <https://www.theatlantic.com/business/archive/2016/07/american-food-waste/491513> [<https://perma.cc/F7M3-5NB6>].

²¹⁵ Morath, *supra* note 1, at 261.

²¹⁶ *Id.* at 261.

²¹⁷ Lowry, *supra* note 47.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *The Food Policy for Canada*, GOVERNMENT OF CANADA (Date Modified: 11/17/2020), <https://agriculture.canada.ca/en/about-our-department/key-departmental-initiatives/food-policy/food-policy-canada>.

²²¹ *Food Loss and Waste*, USDA, <https://www.usda.gov/foodlossandwaste>.

²²² *Id.*

not offer.²²³ However, the United States falls significantly behind Canada in its innovative educational food waste efforts.

As an innovative educational effort, the United States should implement a policy similar to Canada's Food Waste Reduction Challenge that awards people who create innovative food waste reduction proposals.²²⁴ In accordance with scholarly reports that suggest proactively engaging with US consumers is the most effective way to educate the public, this type of education would improve the United States' consumer level education efforts.²²⁵ Currently, as stated above, the US government's food waste website is the United States' main educational source for food waste.²²⁶ This is problematic because this page serves the purpose of helping those searching for food waste solutions rather than educating those who do not realize food waste is an issue. Therefore, the United States would be wise to implement educational efforts that proactively engage with the people of the United States, and Canada has already paved the way for that endeavor.

III. CONCLUSION.

Despite more than enough food being produced to feed the world population, more than 811 million people live in hunger.²²⁷ Although world hunger can be attributed to various factors, one of the main factors is food waste.²²⁸ In the United States, the government has implemented regulations to help improve upon its worldwide food waste ranking of eleventh for high-income countries.²²⁹ These regulations, however, are not sufficient in the short or long term.

²²³ *Compare Food Loss and Waste*, USDA, <https://www.usda.gov/foodlossandwaste> with *The Food Policy for Canada*, GOVERNMENT OF CANADA (Date Modified: 11/17/2020), <https://agriculture.canada.ca/en/about-our-department/key-departmental-initiatives/food-policy/food-policy-canada>.

²²⁴ *Food Loss and Waste*, GOVERNMENT OF CANADA, <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/food-loss-waste.html>.

²²⁵ Lowry, *supra* note 47.

²²⁶ *Food Loss and Waste*, USDA, <https://www.usda.gov/foodlossandwaste>.

²²⁷ *World Hunger: Key Facts and Statistics 2021*, ACTION AGAINST HUNGER, <https://www.actionagainsthunger.org/world-hunger-facts-statistics#:~:text=Around%20the%20world%2C%20more%20than,million%20people%20still%20go%20hungry.&text=The%20proportion%20of%20undernourished%20people,million%20people%20globally%20are%20undernourished>.

²²⁸ *Id.*

²²⁹ *Fixing Food 2018*, *supra* note 4.

Instead, the United States should adopt food waste measures implemented in France and Canada. France's methods indicate three main improvements for the United States to make. First, the Bill Emerson Act must be expanded to require food retailers to make donations to charity organizations. As the act stands now, food donors have a method to donate, but not the proper incentive. Second, the United States must pass legislation that forbids and penalizes food retailers from disposing of food fit for consumption. Third, the United States needs standardized food labeling requirements. A uniform food labeling system would improve food management logistics and decrease food production. In sum, France has passed several pieces of legislation that directly attacks the core issues of food waste at the retail level. The United States would be smart to enact similar legislation.

Additionally, the United States should follow Canada's innovative ideas to combat food waste at the consumer level. Through projects such as the Food Waste Reduction Challenge, Canada does a great job engaging with the community and food waste experts. The United States would greatly benefit from similar public engagement because the people of the United States have grown too comfortable disposing of food still fit for consumption.²³⁰ The United States must take Canada's approach and combat food waste at the consumer level, not just the retail level.

The United States must act swiftly to combat food waste. Despite its efforts, improvements are needed if the United States hopes to meet its goal of reducing half of the amount of food waste in the United States by 2030.²³¹ To achieve this goal, the United States must consider France and Canada's methods of combating food waste.

²³⁰ Cosgrove, *supra* note 2.

²³¹ *United States 2030 Food Loss and Waste Reduction Goal*, *supra* note 110.